



Order Filed on April 12, 2024
by Clerk
U.S. Bankruptcy Court
District of New Jersey

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY
Caption in Compliance with D.N.J. LBR 9004-2(c)

BALLARD SPAHR LLP

Leslie C. Heilman, Esq.
919 N. Market Street, 11th Floor
Wilmington, Delaware 19801
Telephone: (302) 252-4446
heilmanl@ballardspahr.com

*Counsel for 209-261 Junction Road Madison
Investors, LLC.*

In re:

BED BATH & BEYOND, INC., *et al.*,¹

Debtors.

Chapter 11

Case No. 23-13359 (VFP)


Judge: Vincent F. Papalia

(Jointly Administered)

**STIPULATION AND CONSENT ORDER RESOLVING LANDLORD'S
ADMINISTRATIVE CLAIMS**

The relief set forth on the following pages, numbered two (2) through five (5), is hereby
ORDERED.

DATED: April 12, 2024



Honorable Vincent F. Papalia
United States Bankruptcy Judge

¹ The last four digits of Debtor Bed Bath & Beyond Inc.'s tax identification number are 0488. A complete list of the Debtors in these Chapter 11 Cases (collectively, the "Debtors" and each a "Debtor") and each such Debtor's tax identification number may be obtained on the website of the Debtors' proposed claims and noticing agent at <https://restructuring.ra.kroll.com/bbby>. The location of Debtor Bed Bath & Beyond Inc.'s principal place of business and the Debtors' service address in these Chapter 11 Cases is 650 Liberty Avenue, Union, New Jersey 07083.

Debtors: BED BATH & BEYOND INC., *et al.*
Case No. 23-13359-VFP
Caption of Order: STIPULATION AND CONSENT ORDER RESOLVING LANDLORD'S ADMINISTRATIVE CLAIMS

This stipulation and consent order (the "Stipulation") is made by and between 209-261 Junction Road Madison Investors, LLC, (the "Landlord"), and Michael Goldberg, as Plan Administrator (the "Plan Administrator") for the Debtors (together, the "Parties"), including, as applicable, by and through their duly authorized undersigned counsel.

WHEREAS, on April 23, 2023 (the "Petition Date"), each of the Debtors filed a voluntary petition for relief under Chapter 11 of Title 11 of the United States Code (the "Bankruptcy Code") in the Court. The Debtors continue to operate their businesses and manage their assets as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code;

WHEREAS, the Debtors' chapter 11 cases have been procedurally consolidated;

WHEREAS, as of the Petition Date, Landlord and Debtor Buy Buy Baby, Inc. ("Tenant") were parties to an unexpired lease of non-residential real property (the "Lease") located at 231 Junction Rd, Madison, WI 53717 (Store No. 3139) and guaranty of Lease (the "Guaranty") executed by Debtor Bed Bath & Beyond Inc. (the "Guarantor");

WHEREAS, as of the Petition Date, defaults had occurred under the Lease and Guaranty based on, *inter alia*, a lien claim having been asserted by contractor TMS Construction, Inc. ("Contractor");

WHEREAS, on July 17, 2023, Contractor filed a complaint against Landlord based on the lien claim in the Dane County Circuit Court in Wisconsin, Case No. 2023CV001823 (the "Lawsuit") and served the Complaint and Summons upon Landlord on July 18, 2023;

WHEREAS, pursuant to Section 10.1.3 of the Lease and the Mechanics' Lien Indemnification Agreement, Tenant is obligated to indemnify, hold harmless, and protect Landlord from any loss, payment, claim or expense related to a lien or claim arising against Landlord's

Debtors: BED BATH & BEYOND INC., *et al.*
Case No. 23-13359-VFP
Caption of Order: STIPULATION AND CONSENT ORDER RESOLVING LANDLORD'S ADMINISTRATIVE CLAIMS

interest in the Premises and the Shopping Center based upon materials or services provided under contract with Tenant and Guarantor guaranteed to Landlord the full, prompt, and complete performance by Tenant of all Monetary and Non-Monetary Lease Obligations under the Lease;

WHEREAS, on August 17, 2023, the Bankruptcy Court entered a *Ninth Order Approving the Rejection of Certain Executory Contracts and/or Unexpired Leases and the Abandonment of Certain Personal Property, If Any* [[Docket No. 1908](#)], pursuant to which the Lease was rejected effective July 31, 2023 (the “Rejection Date”);

WHEREAS, the Debtors scheduled Landlord as a creditor of Buy Buy Baby, Inc. on their schedules, which scheduled amount was superseded by filed claims of Landlord;

WHEREAS, on August 2, 2023 and September 14, 2023, Landlord filed four proofs of claims against the Debtors concerning the Lease, as follows:

Claim No.	Date Filed	Debtor	Amount
15591	08/02/2023	Buy Buy Baby, Inc.	N/A (amended by 17499)
15595	08/02/2023	Bed Bath & Beyond Inc.	N/A (amended by 17498)
17498	09/14/2023	Bed Bath & Beyond Inc.	\$597,644.55 (GUC) \$977,805.83 (Administrative Priority)
17499	09/14/2023	Buy Buy Baby, Inc.	\$597,644.55 (GUC) \$977,805.83 (Administrative Priority)

WHEREAS, on September 14, 2023, this Court entered the *Findings of Fact, Conclusions of Law, and Order (I) Approving the Disclosure Statement on a Final Basis and (II) Confirming the Second Amended Joint Chapter 11 Plan of Bed Bath & Beyond Inc. and its Debtor Affiliates* [[Docket No. 2172](#)], confirming the *Second Amended Joint Chapter 11 Plan of Bed Bath & Beyond Inc. and Its Debtor Affiliates* [[Docket No. 2160](#)] (as amended, the “Plan”);

Debtors: BED BATH & BEYOND INC., *et al.*
Case No. 23-13359-VFP
Caption of Order: STIPULATION AND CONSENT ORDER RESOLVING LANDLORD'S ADMINISTRATIVE CLAIMS

WHEREAS, on September 29, 2023, the effective date of the Plan occurred; as of that date, the Plan Administrator is authorized to implement the Plan and any applicable orders of the Bankruptcy Court;

WHEREAS, the Parties have agreed upon the terms set forth in this Stipulation, for which the Parties seek approval hereby;

NOW THEREFORE, FOR GOOD AND VALUABLE CONSIDERATION THE PARTIES HERETO ACKNOWLEDGE RECEIVING, IT IS HEREBY STIPULATED, AGREED AND ORDERED AS FOLLOWS:

1. The recitals set forth above are hereby made an integral part of the Parties' Stipulation and are incorporated herein.
2. Claim No. 17498 shall be allowed against the Debtors in the amounts of \$597,644.55 as a general unsecured claim and \$1,042,183.99 as an administrative claim, the latter being comprised of the amount asserted in the claims (\$977,805.83) as well as attorneys' fees and expenses incurred in defending against the Lawsuit (\$64,378.16).
3. Claim Nos. 15591, 15595, and 17499 are hereby withdrawn.
4. Payment of the Landlord's administrative expense claim will be made *pro rata* with all other chapter 11 administrative claims and at the same time that distributions are made on all other chapter 11 administrative claims in these cases.
5. This Stipulation resolves all of the Landlord's potential administrative claims against the Debtors as it relates to the Lease.

Debtors: BED BATH & BEYOND INC., *et al.*
Case No. 23-13359-VFP
Caption of Order: STIPULATION AND CONSENT ORDER RESOLVING LANDLORD'S ADMINISTRATIVE CLAIMS

6. Notwithstanding Bankruptcy Rules 6004(h) and 6006(d), upon the Court's approval of this Stipulation, the relief set forth herein shall be effective and enforceable immediately upon entry hereof.

7. The Parties acknowledge and agree that the Court shall retain jurisdiction over all disputes concerning or related to the subject matter of this Stipulation.

Dated: April 3, 2023

PACHULSKI STANG ZIEHL & JONES LLP

BALLARD SPAHR LLP

/s/ Colin R. Robinson

Robert J. Feinstein (admitted *pro hac vice*)

Bradford J. Sandler

Paul J. Labov

Colin R. Robinson

780 Third Avenue, 34th Floor

New York, NY 10017

Telephone: (212) 561-7700

Email: rfeinstein@pszjlaw.com

bsandler@pszjlaw.com

plabov@pszjlaw.com

crobinson@pszjlaw.com

Counsel to the Plan Administrator

/s/ Leslie C. Heilman

Leslie C. Heilman, Esquire

Laurel D. Roglen, Esquire

BALLARD SPAHR LLP

919 N. Market Street, 11th Floor

Wilmington, DE 19801

Telephone: (302) 252-4465

Facsimile: (302) 252-4466

E-mail: heilmanl@ballardspahr.com

roglenl@ballardspahr.com

*Counsel for 209-261 Junction Road
Madison Investors, LLC*